

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: George E. Woodruff, Jr., et al.)
Dist. 1, Map 129G, Group K, Control Map 129G,) Hamilton County
Parcel 14)
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$13,400	\$80,700	\$94,100	\$23,525

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 20, 2005 in Chattanooga, Tennessee. In attendance at the hearing were George E. Woodruff, Jr., the appellant, and Hamilton County Property Assessor's representative Greg Evans.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 4423 Hancock Road in Chattanooga, Tennessee.

The taxpayer contended that subject property should be valued at \$84,000. In support of this position, the taxpayer essentially testified that subject property experiences a loss in value due to the influx of low-income buyers who do not maintain their property. The taxpayer testified that subject property was unsuccessfully listed for sale in 2005 for 60 days at \$95,000. According to the taxpayer, the realtor advised him that \$84,000 represented a realistic sale price. Thus, the taxpayer maintained subject property should be appraised at \$84,000.

The assessor contended that subject property should be valued at \$94,100. In support of this position, the sales comparison approach was introduced into evidence. Mr. Evans asserted that the comparables support a value range of \$93,100-\$113,200 after adjustments. Given a current appraisal of \$94,100, Mr. Evans recommended no reduction in value.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$94,100 based upon the presumption of correctness attaching to the decision of the Hamilton County Board of Equalization.

Since the taxpayer is appealing from the determination of the Hamilton County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer introduced insufficient evidence to quantify any possible loss in value subject property experiences due to the condition of nearby homes. The administrative judge finds Mr. Woodruff's testimony concerning his realtor's suggested sale price constitutes hearsay with no probative value. The administrative judge finds that no evidence was introduced to establish the basis for the realtor's opinion.

The administrative judge finds that comparable sales normally constitute the best evidence of the value of a residential property. See *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Based upon the foregoing, the administrative judge finds that the taxpayer failed to sustain his burden and it is technically unnecessary to even address the assessor's proof insofar as the assessor could have moved for a directed verdict. Nonetheless, the administrative judge finds it appropriate to simply note that even if the taxpayer had established a prima facie case, the assessor's proof seemingly supports the current appraisal of subject property as indicative of its market value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$13,400	\$80,700	\$94,100	\$23,525

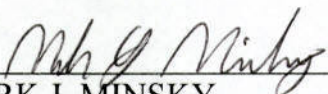
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of January, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. George E. Woodruff, Jr.
Bill Bennett, Assessor of Property